IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1454 of 1979
With
FIRST APPEAL No. 1107 of 1979

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SADHU RAMDAS GURU PRAHALADDAS - Appellant(s)
Versus
MAHANT PRAHALADDAS LAXMANDAS & OTHERS & 5 - Defendant(s)

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Appearance :
MR NK MAJMUDAR for Appellant(s) : 1,
MR NATWARLAL M SHAH for Defendant(s) : 1,
MR VIPUL MISTRI, AGP for Defendant (s) : 9.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 20/06/2007

COMMON ORAL JUDGMENT

1. First Appeal No. 1454 of 1979 is filed by the appellant herein – original applicant before this Court challenging the judgment and order

passed by the learned District Judge, Banaskantha at Palanpur dated 6-8-1979 passed in Civil Misc. Application No. 22 of 1977 in dismissing the said application and confirming the order passed by the learned Joint Charity Commissioner, Ahmedabad dated 25-4-1977 passed in Scheme Application No. 16/70 by which the learned Joint Charity Commissioner has passed an order to frame the Scheme with respect to the properties of Ramji Mandir treating the properties of Ramji Mandir as public trust properties and considering Ramji Mandir as public trust.

First Appeal No. 1107 of 1979 is filed by the appellant herein – original applicant before this Court challenging the judgment and order passed by the learned District Judge, Banaskantha at Palanpur dated 6-8-1979 passed in Civil Misc. Application No. 19 of 1977 in dismissing the said application and confirming the order passed by the learned Joint Charity Commissioner, Ahmedabad dated 25-4-1977 passed in Scheme Application No. 16/70 by which the learned Joint Charity Commissioner has passed an

order to frame the Scheme with respect to the properties of Ramji Mandir treating the properties of Ramji Mandir as public trust properties and considering Ramji Mandir as public trust.

2. It appears from the record and the impugned orders that the properties of Ramji Mandir, Deesa were treated as public trust properties and therefore, by impugned orders the Scheme for proper management of the same was framed by the learned Joint Charity Commissioner and the same confirmed upto the appellate Court. It also appears from the record that during the pendency of the present appeals in Inquiry Case No. 4677/52 the learned Assistant Charity Commissioner, Banaskantha at Palanpur has passed an order on 16.8.2004 treating Ramji Mandir temple as well as its properties as private properties and the temple was not treated as public trust.

3. Learned advocates appearing for the appellants as well as the Charity Commissioner have

submitted that in the year 1952 an application was submitted under Section 80 of the Bombay Public Trust Act under protest and against the registration of the temple as public trust and an appeal was preferred by one of the appellant under Section 70 of the Bombay Public Trust Act before the learned Charity Commissioner, Ahmedabad, which was dismissed for non-prosecution against which Prahladdas preferred appeal before the learned District Judge, Banaskantha at Palanpur and the learned Joint District Judge allowed the said appeal and remanded the matter to the learned Charity Commissioner, Ahmedabad for deciding the same on merits and on remand the learned Charity Commissioner, Ahmedabad has remanded the matter to the Assistant Charity Commissioner for deciding the matter afresh on merits and on remand the learned Assistant Charity Commissioner, Banaskantha at Palanpur by its order dated 16.8.2004 in an Inquiry Case No. 4677/52 has held that the temple and its properties are private properties and accordingly the learned Assistant Charity Commissioner has passed an order to cancel the

registration of the temple as public trust.

4. Under the circumstances when the temple and its properties are treated as private properties and the registration as public trust itself is cancelled and/or the order by which the temple was directed to be registered as public trust itself is cancelled, there is no question of the framing the Scheme under the provisions of the Bombay Public Trust Act for the management of the temple as well as the properties. Under the circumstances and in view of the subsequent orders, the impugned orders passed by the learned Joint Charity Commissioner as well as the learned District Judge with respect to the Scheme with regard to the temple in question as well as the properties are required to be quashed and set aside. Under the circumstances, both these appeals are allowed and the impugned orders passed by the learned Joint Charity Commissioner in Scheme Application No. 16/70 confirmed by the learned District Judge, Banaskantha at Palanpur in Civil Misc. Application Nos.22 of 1977 and 19 of 1977 is hereby quashed and set aside. The appeals are

allowed to the aforesaid extent, however, there shall be no order as to costs.

[M.R.Shah, J.]

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